

IN THE UTAH COURT OF APPEALS

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Julie A. Dugdale,)	MEMORANDUM DECISION	
)	(Not For Official Publication)	
Petitioner,)		
)	Case No. 20091038-CA	
v.)		
)		
Department of Workforce)	F I L E D	
Services,)	(February 11, 2010)	
)		
Respondent.)	<table border="1"><tr><td>2010 UT App 36</td></tr></table>	2010 UT App 36
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Original Proceeding in this Court

Attorneys: Robert J. Poulsen, South Jordan, for Petitioner
Michael R. Medley, Salt Lake City, for Respondent

Before Judges Davis, Thorne, and Voros.

PER CURIAM:

Julie A. Dugdale appeals the Workforce Appeals Board's (the Board) decision denying her request for reconsideration of its October 5, 2009 decision. We affirm.

A claimant who has been denied unemployment benefits may file an appeal with the Division of Adjudication within ten days of the original determination. See Utah Code Ann. § 35A-4-406(3)(a) (2005). If the claimant does not file an appeal within the prescribed time, the claimant must demonstrate good cause for filing the late appeal. See Autoliv ASP, Inc. v. Workforce Appeals Bd., 2000 UT App 223, ¶ 12, 8 P.3d 1033.

Good cause is strictly limited to circumstances where: (1) the appellant received the decision after the expiration of time for filing the appeal, the appeal was filed within ten days of actual receipt of the decision, and the delay was not the result of willful neglect; (2) the delay in filing the appeal was due to circumstances beyond the appellant's control; or (3) the appellant delayed filing the appeal for circumstances which were compelling and reasonable. See id. If the appellant does not demonstrate good cause for his or her late filing, the Administrative Law Judge does not have jurisdiction to hear the appeal. See id.

The record indicates that Dugdale admitted that she timely received the Department's April 29, 2009 decisions. Dugdale indicated that she put off filing her appeal because she was depressed. Thus, with regard to the good cause analysis, the Board was required to determine whether the delay in filing was due to circumstances beyond her control or if the basis for delay was compelling and reasonable. See id.

In addressing these issues, the Board reviewed two letters from Dugdale's physician. The first letter, dated June 8, 2009, indicated that Dugdale suffered from depression. The Board determined that the June 8, 2009 letter "[did] not identify any specific condition as it related to the month of May, when the appeal was due." The Board also determined that the letter was insufficient to establish that it was not within Dugdale's control to file a timely appeal. The Board also noted that the second letter, dated August 7, 2009, indicated that her physician did not believe that her condition was so severe as to render her incompetent. Thus, even assuming that the second letter was admissible, the Board concluded that Dugdale lacked good cause for failing to timely file her appeal.

This court will reverse an administrative agency's findings of fact "only if the findings are not supported by substantial evidence." Drake v. Industrial Comm'n, 939 P.2d 177, 181 (Utah 1997). We will not disturb the Board's conclusion regarding the application of law to facts unless it "exceeds the bounds of reasonableness and rationality." Nelson v. Department of Employment Sec., 801 P.2d 158, 161 (Utah Ct. App. 1990). The record supports the Board's determination that Dugdale's untimely appeal was not due to circumstances beyond her control, and that there was not a compelling or reasonable explanation for failing to timely file her appeal. Thus, the record supports the determination that Dugdale did not have good cause to excuse her untimely appeal.

Affirmed.

James Z. Davis, Presiding Judge

William A. Thorne Jr., Judge

J. Frederic Voros Jr., Judge